

**FILED**

**MAR 29 2011**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION**

**DAVID CREWS, CLERK**  
BY 

**PINKERTON SYSTEMS INTEGRATION,  
NOW KNOWN AS NISCAYAH, INC.**

**PLAINTIFF**

**VS.**

**CIVIL ACTION NO.:** 4:11CV0337-P-S

**DEAN BERNARD AND CONVERGINT  
TECHNOLOGIES**

**DEFENDANT**

**NOTICE OF REMOVAL**

TO: Sam Abraham  
Leflore County Chancery Court Clerk  
P.O. Box 250  
Greenwood, Mississippi 38935

Honorable Jon M. Barnwell  
Leflore County Chancery Court Judge  
P.O. Box 1579  
Greenwood, Mississippi 38930

Wesley D. Ehrhardt  
Timothy W. Lindsey  
Herbert C. Ehrhardt  
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.  
100 Renaissance, Suite 200  
1022 Highland Colony Parkway  
Ridgeland, Mississippi 39157

Jennifer Graham Hall  
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC  
P. O. Box 14167  
Jackson, Mississippi 39236-4167

**COMES NOW** Defendant Convergent Technologies, LLC ("Defendant Convergent")

and notices the removal of this action from the Chancery Court of Leflore County, Mississippi,  
and states as follows:

1. This Notice of Removal is filed pursuant to 28 U.S.C. §§ 1332, 1441 and 1446.

2. Plaintiff filed its Verified Complaint on February 24, 2011 against Defendant Dean Bernard. Defendant Bernard was served February 28, 2011.

3. Plaintiff filed an Amended Verified Complaint on March 14, 2011, adding Defendant Convergint as a party.

4. Defendant Convergint was served with a summons and the Amended Verified Complaint on March 18, 2011.

**Federal Diversity Jurisdiction**

5. This Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1332 on the basis of diversity.

6. Plaintiff is a Delaware Corporation with its principal place of business in Duluth, Georgia.

7. Defendant Bernard is a resident of LaPlace, Louisiana.

8. Defendant Convergint is an Illinois LLC with its principal place of business in Schaumburg, Illinois.

9. Plaintiff demands judgment for an unspecified amount of both compensatory and punitive damages. Based on such allegations, the amount in controversy in this matter exceeds the jurisdictional minimum of \$75,000.00, exclusive of interest and costs. *See Montgomery v. First Family Fin. Serv., Inc.*, 239 F.Supp.2d 600, 605 (S. D. Miss. 2002) (noting that federal courts in Mississippi have consistently held that a claim for an unspecified amount of punitive damages under Mississippi law is deemed to exceed the amount necessary for federal jurisdiction).

10. This Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1332 because the all Defendants are of diverse citizenship from Plaintiff and the claim at issue exceeds \$75,000, exclusive of interest and costs.

11. Defendant Convergent therefore removes this action from the Chancery Court of Leflore County, Mississippi to the United States District Court for the Northern District of Mississippi, Greenville Division. This Notice of Removal is filed within thirty (30) days of service upon any Defendant and is therefore timely under 28 U.S.C. § 1446(b).

12. Attached is a copy of all process and pleadings served upon all Defendants as required by 28 U.S.C. § 1446(a) as *Exhibit "A"* and a certified copy of the Leflore County Chancery Court record for Case No. G11-0026 attached as *Exhibit "B"*.

13. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being filed with the Clerk of the Chancery Court of Leflore County, Mississippi and a copy of said Notice is attached as *Exhibit "C"*.

WHEREFORE, Defendant Convergent removes the above-captioned action from the Chancery Court of Leflore County, Mississippi to the United States District Court for the Northern District of Mississippi, Greenville Division, and requests that this Court assume full jurisdiction of the case herein as provided by law.

DATED this the 28<sup>th</sup> day of March, 2011.

Respectfully submitted,

**PHELPS DUNBAR, LLP**

BY:



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**CERTIFICATE OF SERVICE**

I, MARK FIJMAN, do hereby certify that I have this date mailed through the United States Postal Service, postage prepaid, a true and correct copy of the above and foregoing *NOTICE OF REMOVAL* to the following:

Wesley D. Ehrhardt  
Timothy W. Lindsey  
Herbert C. Ehrhardt  
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.  
100 Renaissance, Suite 200  
1022 Highland Colony Parkway  
Ridgeland, Mississippi 39157  
**ATTORNEYS FOR PLAINTIFF**

Jennifer Graham Hall  
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC  
P. O. Box 14167  
Jackson, Mississippi 39236-4167  
**ATTORNEY FOR DEFENDANT DEAN BERNARD**

Honorable Jon M. Barnwell  
Leflore County Chancery Court Judge  
P.O. Box 1579  
Greenwood, Mississippi 38930

THIS, the 28<sup>th</sup> day of March, 2011.

  
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MARK FIJMAN